

**UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
REGION 20**

LEHIGH SOUTHWEST CEMENT

and

CASE 20-CA-244239

UNITED STEEL, PAPER AND FORESTRY,
RUBBER, MANUFACTURING, ENERGY
ALLIED INDUSTRIAL AND SERVICE
WORKERS INTERNATIONAL UNION, AFL-CIO-CLC

JOINT MOTION TO CONTINUE HEARING

Charging Party United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (“Union”) and Respondent Lehigh Southwest Cement (“Respondent”) respectfully request that the Chief Administrative Law Judge grant their Motion to Continue Hearing in Case 20-CA-244239. The Union and Respondent file this motion pursuant to 102.16(a)(2) and (3) and 102.16(b) of the NLRB’s Rules and Regulations. The hearing in this case is currently scheduled to begin on March 10, 2020 in Redding, California. In support of this Motion, the Union and the Respondent state the following:

In this case, the Union and the General Counsel allege that the Respondent violated Section 8(a)(5) of the Act by implementing its last, best, and final offer on June 12, 2019, before the parties had reached a legitimate impasse. This case was scheduled for hearing on December 3, 2019. Shortly before the December hearing date, the Union and the Respondent reached an agreement on the terms of a new collective-bargaining agreement and withdrawal of the pending charge. This agreement was subject to ratification of the tentative collective-bargaining

agreement by the bargaining unit. The bargaining unit voted against ratifying the tentative collective-bargaining agreement and the hearing was rescheduled.

The Union and the Respondent have resumed negotiations and are diligently pursuing settlement efforts. The Union and the Respondent believe that reaching a ratified contract is the best way to settle the Union's charge. Therefore, the parties have requested the assistance of a mediator from the Federal Mediation and Conciliation Service ("FMCS"). The Union and the Respondent were able to schedule two sessions with the federal mediator for March 5 and March 6, and will schedule additional sessions with the mediator as necessary. The Union's negotiator significantly changed his schedule, including making changes to preplanned travel arrangements, in order to schedule these mediated negotiation sessions before the hearing begins. Still, the parties will likely require additional time to pursue these settlement efforts. Even if the parties are able to reach a comprehensive tentative agreement in the two days of currently scheduled negotiations, the Union will need additional time to complete its internal ratification process.

The parties believe that mediated negotiations are likely to resolve the allegations in the Complaint. Continuing the hearing will allow enough time for the parties to complete negotiations and the ratification process. Continuing the hearing will also save both parties and the Board considerable resources and expense as the Union and the Respondent believe that their current efforts will lead to the withdrawal of the Union's charge.

As an additional reason to continue the hearing, the Union filed a charge on February 24, 2020, alleging that the Respondent further violated Section 8(a)(5) of the Act by 1) unilaterally changing its implemented attendance policy; and 2) inconsistently applying its implemented overtime policy. This new charge involves the Respondent's implementation of its last, best, and final offer and is inextricably related to the allegation in this case. There is substantial risk of

relitigating the same issue – whether the Respondent lawfully implemented its last, best, and final offer on June 12, 2019 – if the Region finds merit to the Union’s new charge.

Granting a continuance will give the Union and the Respondent more time to pursue mediated settlement discussions to resolve all of these pending charges. Granting a continuance will also give the Region time to decide whether the Union’s new charges have merit and, if so, whether to consolidate the charges to save all parties considerable time and expense.

For the above reasons, the Union and the Respondent respectfully request that its Motion to Continue be granted. If the Chief Administrative Law Judge grants the Union’s and the Respondent’s Motion, they respectfully request that the hearing not be rescheduled for April 14-21 as Respondent’s counsel has a prepaid family vacation scheduled for those dates.

Dated: March 2, 2020

Respectfully submitted,

/s/Robert L. Murphy

Robert L. Murphy
Jackson Lewis P.C.
225 Broadway, Suite 2000
San Diego, CA 92101
Direct: (619) 573-4906
Main: (619) 573 4900

Attorney for Lehigh Southwest Cement

/s/Antonia Domingo

Antonia Domingo
United Steelworkers-Legal Department
60 Boulevard of the Allies, Room 807
Pittsburgh, PA 15222
Phone: (412)562-2284
Email: adomingo@usw.org

*Attorney for United Steel, Paper and
Forestry, Rubber, Manufacturing, Energy,
Allied Industrial and Service Workers
International Union, AFL-CIO-CLC*

CERTIFICATE OF SERVICE

I certify that on March 2, 2020, I e-filed the Joint Motion to Continue Hearing with the National Labor Relations Board and served a copy via e-mail on the following party:

Jill H. Coffman
Regional Director
National Labor Relations Board, Region 20
901 Market St., Ste. 400
San Francisco, CA 94103-1735
jill.coffman@nlrb.gov

/s/Antonia Domingo
Antonia Domingo
United Steelworkers